

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT HAWAII**

TERRY SHIBAO D/B/A IMAGING PLUS
HAWAII, LLC,

Plaintiff,

v.

ALEXANDRA PLUTA,

Defendant.

CIVIL NO. 13-00090 KSC

**DECLARATION OF
DARIUS KEYHANI IN SUPPORT OF
PLAINTIFF'S MOTION TO COMPEL
DISCOVERY**

**DECLARATION OF DARIUS KEYHANI IN SUPPORT OF PLAINTIFF'S MOTION TO
COMPEL DISCOVERY FROM DEFENDANT ALEXANDRA PLUTA**

I, Darius Keyhani, declare as follows:

- 1) I am a member of Meredith & Keyhani, PLLC. Our firm represents the Plaintiff, Terry Shibao ("Plaintiff"), in the above captioned Copyright infringement action against the Defendant, Alexandra Pluta ("Defendant").
- 2) On July 10, 2013 Defendant was served with Plaintiff's First Request for Production of Documents and Things. Attached as **Exhibit R** is a true and correct copy of Plaintiff's First Request for Production of Documents and Things. Attached as **Exhibit J** is a true and correct copy of the certificate of service. Defendant did not respond to this discovery request.
- 3) On November 21, 2011 I visited the website: <http://www.leximusic.com>. Attached as **Exhibit B** is an accurate reflection of the content of the website and the image of the page I visited.
- 4) On September 10, 2013 I sent an email to Defendant on behalf of Plaintiff. Attached as **Exhibit E** is a true and correct copy of that email. Defendant did not respond to this email.
- 5) On September 17, 2013 I sent an email to Defendant on behalf of Plaintiff. Attached as **Exhibit F** is a true and correct copy of that email.

6) On September 24, 2013 I received an email from Defendant. Attached as **Exhibit G** is a true and correct copy of that email.

7) On September 25, 2013 I sent an email to Defendant on behalf of Plaintiff. Attached as **Exhibit H** is a true and correct copy of that email. Defendant did not respond to this email.

8) On November 25, 2013 I sent an email to Defendant on behalf of Plaintiff. Defendant did not produce the requested documents and did not respond to my attempt to arrange a telephone conference. Attached as **Exhibit I** is a true and correct copy of that email.

9) On November 21, 2011 I visited the website: <http://facebook.com/photo.php?fbid=202835636459604&set-a.115683101841525.21007.115681715174997&type=3&theater>. Attached as **Exhibit K** is an accurate reflection of the content of the website and the image of the page I visited.

10) On November 21, 2011 I visited the website: <http://www.facebook.com/TheOfficialLexiPage>. Attached as **Exhibit L** is an accurate reflection of the content of the website and the image of the page I visited.

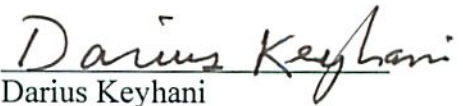
11) On November 21, 2011 I visited the website: <http://twitter.com/#!/lexitheartist>. Attached as **Exhibit N** is an accurate reflection of the content of the website and the image of the page I visited.

12) I have practiced law for the past twelve (12) years focusing on complex and sophisticated intellectual property litigation and for the past ten (10) years I have served in the capacity as lead litigation and trial counsel in over fifty (50) cases in federal courts throughout the United States as well as arbitrations before the American Arbitration Association. I am regularly invited as a guest speaker and panelist at national and international forums on intellectual property law and have published in academic law journals on the subject. My regular billing rate of \$550 per hour

has been adjusted to \$325 per hour in consideration of the prevailing market rates in the community for similar services by lawyers of reasonably comparable skill, expertise, and reputation and in consultation with local co-counsel.

13) I incurred 5.5 hours at an hourly rate of \$325 per hour plus Hawaii tax (4.166%) to draft this motion, plus additional unknown time to review Defendants' opposition memorandum and prepare a reply, which additional unknown time and new total will be presented with the reply memorandum but which is now estimated as an additional 3.5 hour, for a current estimated total of 9 hours, multiplied by the hourly rate of \$325 per hour equals \$2925, plus Hawaii general excise tax of .04166 ($.04166 \times \$2925 = \121.86) equals \$3046.86.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on January 31, 2014 in East Aurora, New York.


Darius Keyhani